SUPREME COURT, U. S.
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JOHN F. DAVIS, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, A.D. 1962.

No. 1046

METRO M. HOLOVACHKA,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR REHEARING OF ORDER DENYING PETITION FOR WRIT OF CERTIORARI

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Petitioner prays that this Court grant rehearing of its order of June 10, 1963, denying the Petition for Writ of Certiorari, and that a Writ of Certiorari issue to review the judgment of the Court of Appeals for the Seventh Circuit in the above-entitled cause as prayed for in the petition filed April 24, 1963.

REASONS FOR GRANTING REHEARING AND ISSUING THE WRIT.

1) The Advisory Committee on Criminal Rules has recommended amendments to *Rules 18, 19 and 21* of the *Federal Rules of Criminal Procedure*. These rules, if accepted by the Committee on Rules of Practice and Procedure, will be presented to this Court for their consideration and adoption in the near future. These amendments expressly eliminate division venue and also provide that a trial court may select a new location for trial. These are the precise issues presented in the instant case. It is urged that the granting of a writ of certiorari will provide the petitioner with an opportunity to present to this Court an extensive and thorough argument in opposition to the proposed amendments which we believe will be beneficial to this Court in its eventual consideration of the proposed amendments.

2) This petition is brought because it is sincerely felt that the Court's denial of Certiorari has, in effect, approved the practice of refusing defendant in a criminal case the right to trial by jury drawn from his own county (or division) against his vigorous objection. This practice, which we believe to be contrary to the established law of the land and in violation of basic Constitutional rights, will lead to similar practices in state courts. Surely this Court would not tolerate such injustice.

We realize our reply brief was on file in this Court only two days, and in the pressure of the large volume of business in this Court, the all-important jury question may not have been given sufficient consideration.

Questions of much less importance in other cases have been reviewed to preserve the rights of defendant. We urge the principle involved here necessitates a review.

CONCLUSION.

For the reasons set forth above and in the petition for writ of certiorari, it is respectfully urged that rehearing be granted and that, upon such rehearing, a writ of certiorari issue to the Court of Appeals for the Seventh Circuit.

Respectfully submitted,

ROBERT J. DOWNING,
105 S. LaSalle Street,
Chicago 3, Illinois,
Attorney for Petitioner.

CERTIFICATE OF COUNSEL.

I hereby certify that the foregoing petition for rehearing is presented in good faith and not for delay and is restricted to grounds specified in Rule 58 of the rules of this Court.

/s/ ROBERT J. DOWNING

Attorney for Petitioner.